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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA  
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13 UNITED STATES, ) 3:14-cr-00018-HDM-VPC  
14 Plaintiff, )  
15 vs. ) ORDER  
16 JAMES E. BRYANT, )  
17 Defendant. )  
18 \_\_\_\_\_ )

19 Before the court is defendant James E. Bryant's motion for  
20 sentence correction, filed March 27, 2015 (#47). The United States  
21 filed a response (#49) and defendant replied (#53).

22 **Background**

23 Defendant is serving a 21-month sentence for failure to  
24 register as a sex offender under 18 U.S.C. § 2250(a). He was  
25 sentenced on February 25, 2015, and the Judgment was entered on  
26 February 26, 2015.

27 In his motion, defendant asserts the current calculation of  
28 the time he has spent in custody is incorrect. Defendant requests

1 the court "correct the calculation and sentence by order and notify  
2 the proper authorities of the change as law requires." Mot. at 3.

3 The United States contends defendant provides no evidence to  
4 support his assertion, and that because defendant has failed to  
5 exhaust his administrative remedies, the court should not address  
6 his motion.

7 **Analysis**

8 Defendant entitled his motion as a "motion for sentence  
9 correction," but it should properly be construed as a petition  
10 under 28 U.S.C. § 2241. "To the extent [petitioner] challenges the  
11 fact or duration of his confinement, the district court should have  
12 construed [petitioner's] complaint as a petition for habeas corpus  
13 under 28 U.S.C. § 2241." *Tucker v. Carlson*, 925 F.2d 330, 332 (9th  
14 Cir. 1991).

15 A defendant may not file a 28 U.S.C. § 2241 petition until he  
16 exhausts his administrative remedies. *See Tucker*, 925 F.2d at 332  
17 ("Generally, a federal prisoner is required to exhaust his federal  
18 administrative remedies before filing a habeas petition.");  
19 *Martinez v. Roberts*, 804 F.2d 570, 571 (9th Cir. 1986) (per curiam)  
20 (a federal prisoner is required to exhaust federal administrative  
21 remedies before bringing a habeas petition in federal court).

22 Defendant is in the custody of the bureau of prisons and  
23 provides no evidence he has attempted to exhaust his federal  
24 administrative remedies.

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1 **Conclusion**

2 Accordingly, and based on the foregoing, defendant's motion  
3 for sentence correction (#47) is **DENIED** without prejudice.

4 IT IS SO ORDERED.

5 DATED: This 28th day of May, 2015.

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7 UNITED STATES DISTRICT JUDGE  
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